

**MEMORANDUM OF UNDERSTANDING
AMONG THE
BUREAU OF INDIAN AFFAIRS
ENVIRONMENTAL PROTECTION AGENCY
HOUSING & URBAN DEVELOPMENT
AND
INDIAN HEALTH SERVICE**

I. Statement of Purpose

The Bureau of Indian Affairs (BIA), the Environmental Protection Agency (EPA), the Department of Housing & Urban Development (HUD) and the Indian Health Service (IHS), all have responsibilities and interests pertaining to the protection of the environment and human health as it relates to pollution control on Indian lands. It is the purpose of this Memorandum of

Understanding (MOU) to identify areas of mutual interest and responsibility of the four agencies and to encourage the coordination of the agencies' respective activities to promote the most efficient and integrated utilization of resources. It is anticipated that the Regional and Area Offices of the respective signatory agencies may desire to develop more specific MOUs pursuant to the general agreements established in this document.

II. Findings

A. Scope of Respective Authorities

All of the agencies have interest in the effects on human health and the environment from pollutants. As a result, each agency conducts or supports environmental health activities in one or more of the following areas:

Air Quality Management

Radiation Hazard Identification and Mitigation

Water Quality and Critical Habitat Management

Surface Water, Ground Water & Drinking Water Protection

Underground Storage Tanks

Hazardous Materials Management, Emergency Response and Community Right-to-Know

Solid Waste Management

Pesticides & Toxic Substance Use and Management and Endangered Species Protection

B. Description of Agency Mission

(It is to be noted that BIA, HUD, and IHS are neither regulatory nor enforcement agencies on environmental matters while EPA is.)

1. BIA's programs are associated with Indian trust resources and include environmental quality through the authority of the trust, and the National Environmental Policy Act of 1969, which establishes procedures that are binding on all Federal agencies. The primary requirement is that an Environmental Impact Statement (EIS) be prepared for every major Federal action

significantly affecting the quality of the human environment. BIA must also apply the Council on Environmental Quality's (CEQ) regulations and the Department of the Interior's implementation procedures. BIA is responsible for assuring that all of its projects comply with all applicable statutes, whether or not projects are Federally initiated or EPA has enforcement authority. BIA must also comply with all laws related to cultural resources and threatened and endangered species.

2. EPA has regulatory and enforcement authority on Indian reservations and authority to expend financial resources on Indian lands under various environmental statutes. Statutes authorizing EPA actions on Indian lands include the Clean Air Act (CAA), Clean Water Act (CWA), the Emergency Planning and Community Right to Know Act (EPCRA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), Resource Conservation and Recovery Act (RCRA), Safe Drinking Water Act (SDWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended, and the Toxic Substances Control Act (TSCA). EPA expects that the Clean Air Act will be amended in 1990 to include authority to treat tribes as states for air quality purposes and to authorize the Administrator to promulgate rules implementing this authority. EPA will either retain its appropriate environmental management authorities or authorize Tribal governments on Indian lands to administer their own regulatory programs on a case by case basis depending upon the language of the particular statute and tribal capability with appropriate consideration for the special needs of tribal governments. The programs will be operated in a manner consistent with the provisions of the EPA Indian Policy and Implementation Guidance which were issued on November 8, 1984. EPA is also responsible for NEPA compliance for its projects on Indian lands.

3. HUD provides financial and technical assistance, under the United States Housing Act of 1937 as amended, in the development and management of low-income housing in Indian and Alaska Native areas. This includes funding for appropriate sanitation facilities for HUD assisted housing projects. HUD conducts a Community Development Block Grant (CDBG) program which is available to tribes. For its projects on Indian lands, HUD insures the compliance of Indian Housing Authority (IHA) with all requirements of NEPA, Section 1091 of the Stuart B. McKinney, Homeless Assistance Amendments Act, the Clean Water Act, and the requirements to ban lead in water plumbing and distribution pipes contained in the Safe Drinking Water Act.

4. IHS has the primary responsibility for improving the health of and preventing disease and injuries among the American Indian and Alaska Native population through the development and implementation of a comprehensive environmental health program on Indian lands. The Division of Environmental Health (DEH) of the IHS conducts activities dealing with air pollution, community injury prevention, emergency operations, epidemiology, food protection, hazardous materials, home and community health, institutional environmental health, occupational health, operation and maintenance assistance, radiation, recreational sanitation, safety, vector control, waste disposal (including solid waste), and water supply. These activities include surveys, technical assistance, investigations, sampling, training, control and construction. The DEH may carry out these activities directly, or the tribes may undertake them with the assistance of IHS, under the Indian Self-Determination Act, P.L. 93-638 as amended. The purpose of the IHS Sanitation Facilities Construction Program (authorized by P.L. 86-121, the Indian Sanitation Facilities Act and reaffirmed by P.L.100-713, the Indian Health Care

Amendments of 1988) is to take direct action to provide sanitation facilities that improve the health status of Native Americans. These facilities can include water supply, sewage treatment or solid waste management systems. IHS does not operate or maintain community water, sewage or solid waste facilities, but provides training and technical assistance and may provide the necessary equipment in conjunction with new facilities or major renovation projects for Indian tribes to perform these activities. IHS prepares NEPA compliance documents for its projects on Indian lands.

C. Areas of Primary Mutual Interest

Listed below are specific program areas of special interest to BIA, EPA, HUD and IHS. General responsibilities are outlined under each area.

1. Air Quality Management
 - a. BIA
 - Technical Assistance, Coordination with EPA/Tribes
 - Provides some funding for Air monitoring
 - b. EPA
 - Provides technical assistance and training for planning and management activities
 - Provides monitoring and assessment of air quality on Indian lands
 - Provides Section 105 (Clean Air Act) grant assistance to tribes and demonstration grants for Indoor Radon Abatement
 - Provides assistance in implementing the Prevention of Significant Deterioration on Indian Lands
 - c. HUD
 - IHA Compliance with Tribal or Local Construction Standards which Includes Assuring Wood or Coal Stoves Meet Appropriate Air Quality Standards
 - d. IHS
 - Investigation of Potential Health Problems, Monitoring, Technical Assistance, Compliance with Local Construction Standards
 - e. Potential Overlap
 - Technical Assistance (BIA, EPA, IHS)
 - Monitoring (EPA, IHS, BIA)
2. Radiation Hazard Identification and Mitigation
 - a. BIA
 - Technical Assistance, Coordination with EPA/Tribes, Monitors Radionuclides in BIA Operated Systems, Considers Potential Problems such as Radon in Home Design
 - Conducts Studies in accordance with the Radon Abatement Act of 1988
 - b. EPA
 - Tribes may be Included in the National Household Radon Survey
 - May Provide Canisters & Technical Assistance for Tribes or IHS to Conduct Radon Surveys As Resources Permit
 - Provides Consultation on Appropriate Radon Remediation Activities

- Provides, Assistance in Monitoring of Radionuclides in Water and Radioactive Releases in General
 - Provides Training to Tribes and other agencies in Radon Remediation
 - Provides Technical Assistance and Consultation on Releases of Radioactive materials
- c. HUD
- Considers EPA/IHS Recommendations for Site Approval
 - Considers EPA/IHS Recommendations on Radon
 - Develops a Policy Based on EPA Guidelines to Prevent Harm to Human Health from Radon Exposure
- d. IHS
- Assistance in Radon Surveys of Homes on Reservations
 - Provides Technical Assistance on All Radiation Issues
 - Conducts Surveys of IHS Owned Facilities in Accordance with the Radon Abatement Act of 1988
 - Assistance in Monitoring of Natural Radiation Sources
 - Performs Compliance Testing of Radiation Equipment in Health Care Facilities
 - Provides Training
 - Assists Tribes in Initial Monitoring of Radionuclides in Water
- e. Potential Overlap
- Technical Assistance (BIA, EPA, IHS)
 - Radon Surveys (EPA, IHS)
 - Radon Abatement Surveys (BIA, IHS)
 - Monitor Radionuclides in Water (EPA, IHS, BIA)
3. Water Quality and Critical Habitat Management
Water Supply Systems, Waste Water Treatment, Surface Water, Groundwater and Drinking Water Protection and Critical Habitat Management
- a. BIA
- General Activities
- Sampling, Testing and Monitoring of Surface Water and Ground Water for Water Quantification Studies, for Uses Including Livestock, Wildlife, Instream Flow, Municipal, Industrial Recreation, Religious, Cultural and Diversionary Trespass Issues
 - Operation and Maintenance (O&M) for BIA Facilities
 - WSS and WWT for BIA School/Agency Facilities
 - Provides Training to Tribes for Water Management
 - Provides Technical Assistance and Consultation on Tribal Jurisdictional Issues
- Safe Drinking Water Act
- Inventory and Maintenance of Water Supplies for BIA School/Facilities
 - Coordinate with EPA and other Agencies on Underground Injection Control Direct Implementation Programs
- Clean Water Act
- Technical Assistance to Tribes in Defining a Scope of Work as Part of an Application for EPA 106 Funds
 - Assists Tribes in Obtaining EPA Section 402 and 404 Permits

- Develops Best Management Practices (BMPS) for Control of Non-Point Source Pollution on Trust Lands

b. EPA

General Activities

- Assist Tribes in Developing Tribal Capacity to Regulate
- Direct Implementation for Tribes not Meeting Statutory Requirements for Treatment as a State or not Seeking Authorization to Implement EPA Programs in Balance with other Agency Priorities
- Training of Tribal Staff in Water Quality Monitoring Procedures
- Maintenance of Ground Water and Surface Water Quality Data
- Provide Funds for Demonstration Projects

Safe Drinking Water Act

- Regulates Public Water Systems (PWS) or authorizes Tribes Treated as States to Assume Primary Enforcement Responsibility and can Provide Tribal Grants to Tribes Treated as States
- Sole Source Aquifer Protection
- Underground Injection Control Program Implementation: Authorizes Tribes Treated as States to Assure Primary Enforcement Responsibility and Can Provide Tribal Grants to Tribes Treated as States
- Well Head Protection
- Works With Tribes in Developing Safe Drinking Water Programs

Clean Water Act

- National Pollutant Discharge Elimination System (NPDES) Permits
- Clean Lakes Programs
- Enforcement & Regulation of Surface Water Standards
- Wetlands Protection
- Section 401 Permit and License Certification
- Non-Point Source Pollution Prevention
- Works with Tribes in the Development of Tribal Water Quality Programs and Authorizes Tribes Treated as States to Carry out Appropriate Functions
- Award Tribes Treated as States 106 Water Quality Management Grants
- Waste Water Treatment System Construction Grants

c. HUD

General Activities

- Funds On-Site Sanitation Systems for HUD Assisted Housing Through Housing Authorities
- Water and Sewage Project Funding through CDBG Program
- Provides Funds to IHS under Agreement with HUD and the Housing Authorities for Construction of Off-site Sanitation Facilities Which May Include Equipment for Operation and Maintenance Activities
- Bans Lead in Water and Distribution Pipes, Solder and Flux in HUD Assisted Property
- Requires Funded Housing Projects to comply with Wetlands Provisions of the Clean Water Act

d. IHS

General Activities

- Off-site Sanitation Facilities Construction for HUD Homes
- Construction of Sanitation Facilities for BIA Housing Improvement Program (HIP), Tribally Funded Programs, and Existing Homes (On and Off-Site Facilities)
- Well Construction
- Technical Assistance for On-site Water and Sewer Facilities
- Assist Tribes in Obtaining EPA Permits
- Technical Assistance to Tribes to Address Provisions of SDWA & CWA
- Training of Homeowners
- Conducts Special Studies Such as Utility Rate Studies
- Provides Technical Assistance in the Establishment of O & M Organizations, As Well As, Equipment and Tools for O&M
- Surveys of Indian and BIA Water and Waste Water Systems
- Maintenance of Data System for Sanitation Facilities

Safe Drinking Water Act

- Design and Construction of Drinking Water Facilities, Distribution and Storage Facilities for Domestic Use
- Training of Tribal Staff in Operation and Maintenance of Sanitation Facilities

Clean Water Act

- Design and Construct Waste Water Collection, Treatment and Disposal Facilities for Domestic Use
- Training of Tribal Staff in O&M of Sanitation Facilities

e. Potential Overlap

- Water Quality Testing as Appropriate or Required (BIA, EPA, IHS)
- Funding Wastewater Facilities (EPA, HUD, IHS,)
- Funding of Domestic Drinking Water Facilities (HUD, IHS)
- Assistance in Obtaining Additional Sources of Funding (BIA, EPA, IHS)
- Technical Assistance to Address Provisions of SDWA and CWA (BIA, EPA, IHS)
- Assist Tribes in obtaining EPA Section 402 and 404 Permits (BIA, EPA, IHS)
- Assist Tribes in Identifying BMPs for Protection of Water Quality/Water Supplies (BIA, EPA, IHS)
- Critical Habitat Management (BIA, EPA)
- Maintenance of Water Quality Data (BIA, EPA, IHS)
- Assist Tribes in Applying for EPA Grant Programs (BIA, EPA, IHS)

4. Underground Storage Tanks

a. BIA

- Inventory Underground Storage Tanks (UST) owned or operated by BIA
- Monitoring of EPA's UST Pilot Projects.

b. EPA

- Implement Subtitle I of RCRA
- Leaking Underground Storage Tank Trust Fund Supported Enforcement and Corrective Action Activities

c. HUD

- None

- d. IHS
 - Inventory of UST Owned or operated by IHS
 - Monitor EPA's UST Pilot Projects and UST Corrective Actions (with EPA and Tribes)
- e. Potential Overlap
 - Inventory of USTs (BIA, EPA, IHS)
 - Monitoring of EPA's UST Pilot Projects and UST Corrective Actions (BIA, EPA, IHS)
- 5. Hazardous Materials Management, Emergency Response and Community Right-to-Know
 - a. BIA
 - Technical Assistance, Surveys, Testing, Monitoring, Facilitate Non-National Priority List (NPL) Cleanup, Emergency Response
 - b. EPA
 - Enforcement, NPL Cleanups, Emergency Response, Pre-remedial Evaluation, Cooperative Agreements with Tribes, Technical Assistance
 - Delegation of Hazardous Waste Programs to Qualified Tribes
 - Training of Tribal Staff
 - Provides Technical Assistance to Tribes Including Consultation Concerning the Development of Tribal Implementation of the Emergency Planning and Community Right to Know Act
 - Conducts Community Relations Activities at Superfund Sites
 - c. HUD
 - Require the Indian Housing Authority, Their Contractors and Agents on HUD Assisted Housing Projects to Comply with Local Standards Which Could Include Disposal of Some Hazardous Materials
 - d. IHS
 - Technical Assistance
 - Surveys & Testing
 - Emergency Response which is Limited to such Activities as Identification, some Monitoring, Surveillance, etc.
 - Identifying and Monitoring Hazardous Waste Streams in Health Care Facilities Including Infectious Waste Disposal
 - Training of IHS and Tribal Staff Regarding Hazardous Materials, Including the Community and Worker Right-To-Know Laws
 - e. Potential Overlap
 - Technical Assistance (BIA, EPA, IHS)
 - Testing and Site Assessment (BIA, EPA, IHS)
 - Emergency Response (BIA, EPA, IHS)
 - Cooperation on Operation and Maintenance of Superfund Remedies (BIA, EPA, IHS)
- 6. Solid Waste Management
 - a. BIA
 - Technical Assistance to Tribes (usually tribally owned and operated facilities)
 - Operates Sites at Some BIA Facilities

- b. EPA
 - Sets National Standards for Sanitary Landfills Design and Operation
 - Technical Assistance and Training
 - Technical Assistance on Solid Waste Management
 - Technical Assistance on Solid Waste Program and Regulation Development
 - Limited Grant Support for Tribal Solid Waste Management Planning
- c. HUD
 - Solid Waste Project Funding Through Community Development Block Grants
 - Funding for Pro Rata Share of Solid Waste Facilities to Serve HUD Assisted Housing Projects
- d. IHS
 - Assists Tribes in Development of Solid Waste Management Plans
 - Provides Funding as Resources Permit for Solid Waste Projects
 - Assists Tribes in Identifying and Obtaining Funds from Other Sources
 - Surveys of Solid Waste Disposal Sites Including BIA Operated Sites
 - Surveys of Solid Waste Management Needs
 - Training and Technical Assistance in the Operation of Solid Waste Management Projects
- e. Potential Overlap
 - Technical Assistance (BIA, EPA, IHS)
 - Solid Waste Management Plan Assistance (BIA, EPA, IHS)
 - Funding of Solid Waste Projects (HUD, IHS)
- 7. Pesticides & Toxic Substance Use and Management
 - a. BIA
 - Approvals for the use of Restricted Use Pesticides, Training of Pesticide Applicators, Review of Pesticide Use Patterns, and Ensure Protection of Endangered Species
 - Asbestos Surveys and Remedial Action in BIA School
 - b. EPA
 - Regulation of Pesticides and Chemical Substances
 - Cooperative Agreements Grants to Qualified Indian organizations and Individual Tribes where Required Authorities Exist for Enforcement and Pesticide Applicator certification
 - Grants to Remove Asbestos from Indian Schools
 - Training for Enforcement Inspectors
 - Endangered Species Protection Compliance, Groundwater Protection, and Agricultural Worker Protection
 - c. HUD
 - Require IHA to comply with Lead-Based Paint Hazard Elimination Rule of June 6, 1988 and Section 1088 of the McKinney Amendments Act of 1988
 - d. IHS
 - Asbestos Monitoring in IHS and Tribal Facilities as Appropriate
 - Remedial Action in IHS Facilities
 - Technical Assistance Regarding Pesticide Usage and Disposal and,

Endangered Species Protection

e. Potential Overlap

- Asbestos (BIA, EPA, IHS)
- Pesticides (BIA, EPA)
- Endangered Species Protection Groundwater Protection, Worker Protection (EPA, BIA, IHS)

III. Interagency Actions

The following actions are agreed to:

1. BIA, EPA, HUD, and IHS will work cooperatively with each other at Headquarters and in the Regions/Areas, and in close consultation with tribal governments, to coordinate environmental programs affecting Indian lands. Where applicable, and within the constraints of available resources, each agency will:
 - a. Participate in headquarters, regional and local level information exchanges to keep abreast of the other agencies' program activities and regulations and notify other agencies of its own program activities, regulations and future plans.
 - b. Cooperate in providing program services to tribal governments.
 - c. Provide training and technical assistance to each other and to Tribal representatives in the area of each agency's special expertise.
 - d. Collaborate on overlapping responsibilities.
 - e. Coordinate to the greatest extent possible and integrate where feasible, the provision of funding assistance to tribal governments, where the funding authorities of the four agencies are combined or complementary.
2. BIA, EPA, HUD, and IHS will continue to identify and develop coordination in these areas of environmental protection. Supplemental agreements or actions specific to program coordination in each of the above areas may be prepared, as appropriate. Potential overlap areas may be addressed at the area/region or headquarters levels.
3. BIA, EPA, HUD, and IHS will encourage and educate their staffs in the use and implementation of the terms of this MOU. Where applicable tribal and/or state agencies may be included as signatories to supplemental agreements.

IV. Duration of Agreement

This MOU shall continue in effect until BIA, EPA, HUD or IHS provides written notice of termination. Notice shall be given to the other parties at least thirty (30) days in advance of the termination date. This document may be updated and periodically amended with the concurrence of all parties. This document does not cancel any previous MOUs or Agreements.

V. Reports

No routine reports are required. However, quarterly meetings will be called by BIA at headquarters and held among the parties to discuss implementation of this MOU. Additional meetings may be called as necessary by any signatory agency. Minutes will be taken and distributed. Where appropriate, BIA may also call quarterly meetings at the Area/Regional where all parties are in agreement that such meetings would be beneficial. Minutes of those meetings will also be taken.

Signed by:

Assistant Secretary, Indian Affairs	Nov. 19, 1990
Deputy Administrator, Environmental Protection Agency	Jan. 15, 1991
Assistant Secretary for Public and Indian Housing	June 21, 1991
Director, Indian Health Service	May 13, 1991
Acting Assistant Secretary for Community Planning and Development	June 13, 1991